



UK Prime Minister Andy Burnham bilateral meeting with Donald Trump, US President during the United Nations General Assembly at the United Nations Headquarters in New York (September 2026). Photo: Simon Dawson / No 10 Downing Street

US digital trade rules: what's at stake for the UK?

Risks for UK policy on AI, online safety, tax, competition and data security

Summary

The UK has been negotiating a technology-focused trade agreement with Donald Trump's administration since May 2025, when [both countries committed to](#) "continuing discussions toward a transformative technology partnership between our countries". [The price of the deal: Potential implications for UK technology regulation from a UK-US digital trade agreement](#), a Trade Justice Movement report summarised in this briefing, finds that such a deal could severely restrict the UK's ability to regulate and tax US technology companies.

Key policies - including the Digital Services Tax, Online Safety Act and plans to restrict social media use for under 16s - could all be at risk. This is deeply worrying. A handful of US tech companies are now hugely powerful, and richer than most states. Their products, from AI tools to social media platforms, have extraordinary

potential - both positive and negative. But if this technology is going to be harnessed in pursuit of the public good it must be carefully regulated. Throughout this year's Labour Party conference a range of Ministers - including the Prime Minister, the Chancellor, the Foreign Secretary, and the AI Minister - spoke about realising the benefits of AI, but each also emphasised protecting the UK public from the risks it poses, to data protection and online safety, among other things. If, as [the Prime Minister outlined](#), the UK wants to lead a new G20 compact on AI, or meet [the Culture Secretary's ambition](#) of creating safe online spaces, it must retain the right to regulate digital spaces and protect the British people.

A digital trade deal with the US could trade away British sovereignty to regulate Big Tech, leaving the UK's approach determined not by British

lawmakers but by Silicon Valley. To guard against this, the government should set out clear red lines for any UK-US digital trade deal, and ensure parliamentarians have a proper role in scrutinising - and if necessary, rejecting - trade deals.

What could be in a UK-US digital trade deal?

If the UK and US succeed in finalising the digital trade deal which has been under negotiation for more than a year, we have a good idea of what it will include. Digital trade agreements, including the recent deals struck by Trump, tend to incorporate a number of core elements. Of these, the most relevant for UK policy-makers are:

- **Non-discrimination for digital products and services standards.** This is a key concept in international trade law: that regulation should not unfairly discriminate against foreign products. However, under the model the US has been pushing, discrimination need not be explicit nor intentional. Measures which *in practice* have a greater impact on products from one country can be challenged. When so many of the dominant firms in AI, search and social media are American, they can challenge as discriminatory policies targeted at the largest and most powerful market players.
- **Source code and algorithm secrecy protection.** These provisions, found in all recent US trade agreements, prohibit governments from requiring a firm to share the code which underlies its software. This significantly restricts the ability of governments and public regulators to understand technologies and ensure they comply with national laws.
- **Bans on data localisation requirements and international data transfer regulation.** These clauses prevent governments from limiting the transfer of data across borders, including by requiring technology firms to store or process data on local servers. This restricts the sovereignty of states to enforce data protection laws.

Implications for UK tech policy

These provisions likely offer Trump's government and US tech firms the ability to challenge key areas of UK technology policy. The research identifies six areas of particular concern.

Risk 1: Undermining the UK's ability to tax the world's richest companies

Trump has made no secret of his opposition to the UK's Digital Services Tax (DST). This is a 2% tax on the UK-derived revenue of the largest tech firms, and is projected [to raise £5 billion](#) over the course of this parliament. Many recent US trade agreements explicitly ban countries from introducing DSTs and Canada passed a law to repeal its 3% DST under pressure from Trump.

Even if the UK managed to exclude from any deal a specific provision banning the DST, any standard non-discrimination clause could be used to challenge the DST on the basis that - as a tax applying only to the largest tech firms - it is in practice levied only on US firms and is therefore discriminatory.

Risk 2: Preventing the UK from supporting a competitive tech sector

The UK's Digital Markets, Competition and Consumers Act (DMCCA) is designed to tackle the market power of the largest digital platforms. The firms currently designated under the regime are exclusively American, reflecting market realities rather than any intention to discriminate against US companies.

However, this means the DMCCA would likely be vulnerable to challenge under any agreement containing non-discrimination rules of the type seen in recent US agreements. Regulatory measures such as restricting default settings, giving rival services access to platforms or requiring platforms to change how products are ranked or displayed could be argued as giving a US digital service "less favourable treatment." Washington has already characterised foreign digital competition regimes as discriminatory where they place greater burdens on American companies.

Risk 3: Obstructing effective AI regulation

As AI develops rapidly and becomes increasingly important in economic and social life, the UK is considering stronger oversight of advanced AI, including: mandatory pre-deployment testing, independent or third-party audits, transparency and explainability requirements, and access to information about how AI systems operate. These are sensible preventive measures, offering regulators the means to assess powerful AI systems before harm occurs, rather than waiting for a specific breach.

Yet US-style digital trade provisions protect companies from requirements to disclose source code or algorithms, with regulators' access generally limited to a specific investigation, inspection, examination, enforcement action or judicial proceeding. This could leave regulators unable to carry out the kind of oversight needed to identify and tackle risks proactively. To be at all effective, AI regulators must be able to rigorously test systems and have ongoing oversight.

Risk 4: Weakening the Online Safety Act and exposing adults and children to online harm

The UK's Online Safety Act is a 2023 law intended to keep adults and children safe online. But US-style digital trade rules could seriously undermine Ofcom's ability to enforce the Act effectively.

Ofcom's regulatory model requires consistent access to and information on platforms' systems and algorithms, as well as the ability to conduct audits and appoint experts to assess key risks. The Online Safety Act specifically provides for ongoing supervision of tech platforms to meet the objectives of the legislation in protecting the UK public. In the wake of a UK-US trade deal, US tech firms would likely contest the requirements of the Online Safety Act using clauses covering non-discrimination and source code non-disclosure.

Risk 5: Creating new barriers to UK-EU trade

Recent US agreements require trade partners to recognise US data protection standards as adequate. By signing up to such a provision, the UK could lock itself into recognising US data protection standards, limiting its ability to respond if those standards are weakened in the future. This scenario could also create additional tension and complexity in the vital UK-EU trading relationship. The EU could well deem US data standards (and by extension, UK standards) insufficient. This could lead to significant trade barriers for UK firms operating in the EU, as the EU rightly takes measures to protect the privacy of its citizens.

Risk 6: Stopping the UK from restricting social media use for under-16s

The UK government has recently brought forward measures to protect children online, including a ban on social media use for under-16s and a crackdown on AI generated sexual material and 'nudification' tools. Given that social media is dominated by US companies, restrictions and regulations of this sort would impose commercial and compliance costs primarily on US companies. Under a broad "de facto discrimination" trade provision, Washington could challenge these policies as discriminatory against the US. This is plausible given the Trump administration's public opposition to social media regulation.

Why this deal is different

The UK has already signed up to digital trade commitments with a range of partners. However, a US agreement would be categorically different in three respects:

1. The market is asymmetric. US firms dominate the sectors being regulated. Even if a deal was worded in a way that it applied on a reciprocal basis, in practice it would offer US firms operating in the UK extraordinary influence, while doing little for UK firms.

2. The US is getting tougher. Recent US trade agreements go further than ever before in protecting the interests of Big Tech. They contain broader definitions, fewer exceptions for public policy measures, stronger provisions on taxation and commitments on partners to recognise US regulatory standards.

3. It won't be fairly enforced. Traditional trade agreements generally include independent mechanisms for settling disputes. But these have been done away with in recent US deals. Instead, these deals see Trump's officials unilaterally assessing compliance, applying consequences under US law, levying tariffs or other disciplinary measures. This means any deal would in practice operate in a manner badly skewed in favour of the US.

These risks are not unique to Trump. The underlying US approach to digital trade is embedded in US trade agreements and negotiating objectives that predate the current administration, and there are no guarantees that a successor to Trump would take a radically different approach given the power of Big Tech in Washington.

Protecting the UK's freedom to regulate

The UK has made positive progress in taxing Big Tech, promoting competition, protecting children, safeguarding personal data and preparing for AI risks. To maintain and expand this progress in the coming months and years, the government must protect its sovereignty to regulate the digital economy, ensuring decisions are made in the UK rather than Washington or Silicon Valley. The UK government should:

Publish clear red lines for any UK-US digital trade which must include:

- 1. Reject blanket non-discrimination clauses covering digital services/products.** Without ironclad carve-outs for public interest regulation, such clauses can and will be used to undermine the UK's ability to regulate the digital economy.
- 2. Protect the UK Digital Services Tax.** The UK's ability to tax economic activity generated in the UK is a sovereign right.
- 3. Establish clear protections for AI safety regulation.** UK regulators must retain the ability to require auditing, testing and access to information where necessary to protect the public.
- 4. Confirm protection for Ofcom's existing powers.** The Online Safety Act should not become subordinate to commercial secrecy provisions negotiated with a foreign government.
- 5. Exclude automatic recognition of the US as an 'adequate' data jurisdiction.** The UK must retain the ability to re-evaluate foreign data-protection standards as circumstances evolve.

Ensure MPs are able to effectively scrutinise any trade agreement

If a deal at all constrains the ability of policy-makers to regulate and manage the fastest moving and evolving space in society and the economy, then it should be subject to the utmost scrutiny and consideration.

The current statutory framework under the Constitutional Reform and Governance Act 2010 (CRAg) provides inadequate opportunities for parliamentarians to shape, scrutinise and approve treaties. The UK should reform the systems of parliamentary scrutiny, giving parliamentarians a role in setting negotiating mandates, scrutinising the content of a deal, and approving or rejecting the final package.



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